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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/977,831	10/15/2001	Christophe Bonny	20349-512 (OTT-12)	4526

7590 04/28/2004

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EXAMINER

PONNALURI, PADMASHRI

ART UNIT	PAPER NUMBER
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1639

DATE MAILED: 04/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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9/14

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT

PAPER

042604

DATE MAILED:

**Please find below and/or attached an Office communication concerning this application or proceeding.**

Commissioner for Patents

Application/control number: 09/977,831

Art Unit: 1639

The reply filed on 1/30/04 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): See 37 CFR 1.111.

Applicant's response to the office action (mailed on 9/30/03) filed on 1/30/04 has been fully considered and entered into the application.

Applicants have canceled claims 1-13, 15-35, amended claim 14 and added new claims 36-54. Claims 14, 36-54 are currently pending in this application.

Newly submitted claims 50-54 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: the 'method of translocating a transporter peptide' has been elected to prosecute in this application (claim 14) which was examined on merits. The newly added claims 50-54 are drawn to a 'method detecting translocation of a transporter peptide across the membrane' which is distinct from the examined method claim.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 50-54 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

The current amended claim 14 is different in scope compare to the original claim 14 (or the examined claim 14). The original claim 14 recites that the transporter polypeptide is selected from the group consisting of SEQ ID NOs: 1-6. Applicants have elected sequence of SEQ ID NO: 1 to be examined in this application (see the response filed on 7/15/03).

The instant amended claim 14 recites that the transporter polypeptide of general formula  $X_m-R-X_o-R-X_n$ , wherein X is a non-basic amino acid. And the elected species of SEQ ID NO: 1 does not read on the amended transporter polypeptide of formula  $X_m-R-X_o-R-X_n$ , because X is non-basic amino acid, m is zero, o is zero, n is 2 to read on SEQ ID NO:1 (RRTK). However, in the amended claim 14 formula X is a non-basic amino acid and the SEQ ID NO: 1 RRTK sequence Lysine would not read on the non basic amino acid. Thus, the amendment is considered as non-responsive.

Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Padmashri Ponnaluri whose telephone number is 703-305-3884. The examiner is on Flex Schedule and can normally be reached from Monday through Friday between 7 AM and 3.30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Wang can be reached on 703-306-3217. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0916.

  
PADMASHRI PONNALURI  
PRIMARY EXAMINER

Padmashri Ponnaluri  
Primary Examiner  
Art Unit: 1639